# EXHIBIT 8

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DePuy Mitek, Inc., a Massachusetts Corporation,

Plaintiff,

vs.

CIVIL ACTION
NO. 04-12457 PBS

Arthrex, Inc., a Delaware Corporation,

Defendant.
_____/

DEPOSITION OF: PETER DREYFUSS

DATE: September 16, 2005

TIME: 8:59 a.m. to 1:54 p.m.

LOCATION: The Ritz Carlton Golf Resort
2600 Tiburon Drive
Naples, FL 34112

TAKEN BY: Plaintiff

REPORTER: Deborah A. Krotz, RPR, CRR

VIDEOGRAPHER: Les Smoak, CLVS

42

Q. Okay. Okay. When I have been saying today the No. 2 FiberWire in No. 7201, I have been referring to the blue FiberWire as opposed to the black and white TigerWire.
A. Understood.
Q. Okay. Did you understand that when I have been asking questions?
A. Yes, I have.
Q. Okay. Let me ask the question again. So as Arthrex believes the materials used in the manufacturing of the No. 2 FiberWire in AR-7201 are ultra high molecular weight polyethylene, PET, silicone, Loc-Tite, and dye?
A. Correct.
Q. And the silicone, is that the coating used in the No. 2 Arthrex FiberWire?
A. Yes.
Q. And what coating is used in Arthrex's FiberWire in AR-2 -- AR-7201?
A. I'm sorry. I --
Q. And what coat is used in Arthrex's FiberWire wire AR-7201?
A. I believe it's a silicone coating.
Q. Is it referred to as MED-2174?
A. Yes. Correct.
Q. And that's manufactured by a company called NuSil

43

Technologies; is that right?
A. That's correct.
Q. Okay. Now I'd like to walk through the steps of what Pearsalls does to make the bulk sutures used in Arthrex's FiberWire; okay?
A. (Witness nods head affirmatively).
Q. And if we start on Page ARM 8784, the first step says incoming yarn to stores. Do you see that?
A. Yes.
Q. What does that mean?
A. That would mean that the yarns that are purchased from a regional manufacturer would be received, inspected and put into inventory for -- as good product for manufacturing.
Q. And what incoming yarns are received by Pearsalls when Pearsalls manufactures and braids the bulk sutures made for Arthrex's FiberWire sutures?
A. Incoming yarns would be ultra high molecular weight polyethylene and PET.
Q. Where does Pearsalls obtain the ultra high molecular weight polyethylene used in manufacturing and braiding Arthrex's FiberWire sutures?
MR. TAMBURO: Objection; outside the scope.
A. I -- May I ask currently?
Q. Sure. Yes, currently for now.

44

A. Currently --
Q. Let me ask another question to help you out. Does Arthrex provide to Pearsalls the ultra high molecular polyethylene used to manufacture and braid bulk sutures for Arthrex's FiberWires?
MR. TAMBURO: Same objection.
A. We have, yes.
Q. Currently do you; do you know?
A. Currently, I don't know.
Q. Okay. And other than Arthrex supplying the ultra high molecular polyethylene to Pearsalls, what other sources throughout the history of FiberWire has Pearsalls obtained the ultra high molecular weight polyethylene used in the manufacturing and braiding of Arthrex's FiberWire sutures?
MR. TAMBURO: Objection. The question is seeking an answer outside the scope of the topics that this witness is designated for.
A. I believe Dyneema. DSM Corporation.
Q. And for what periods did Pearsalls obtain Dyneema for use in the braiding and manufacturing of Arthrex's FiberWire sutures?
MR. TAMBURO: Same objection.
A. I don't know.
Q. Currently, what type of ultra high molecular

45

polyethylene is used in the manufacturing of Arthrex's FiberWire sutures?
A. Speaking currently, it may be either Spectra or Dyneema in terms of the manufacture of the ultra high molecular weight polyethylene.
THE COURT REPORTER: The "manufacture"?
A. Of the procurement.
THE COURT REPORTER: "Procurement."
Q. But you're not sure what the current material used in the FiberWire is for ultra high molecular polyethylene?
A. No.
Q. Okay. Other than the ultra high molecular polyethylene that Pearsalls obtains to make the braid for Arthrex's FiberWire sutures, you mentioned that they also obtain PET; correct?
A. Correct.
Q. And what is PET?
A. It's polyester.
Q. And what type of polyester does Pearsalls use to braid Arthrex's FiberWire sutures?
A. I'm not sure.
Q. Do you know who or where Pearsalls obtains the PET used in the manufacturing of Arthrex's FiberWire sutures?

50

A. Yes.
Q. Okay. And then let's get back to where we were. Yarn issue to winding for either. And I believe you said that Pearsalls then takes the incoming yarn in whatever form it's in and puts the polyester and the Dyneema or the polyethylene on various bobbins?
A. Yes.
MR. TAMBURO: Objection.
Q. Is that right?
MR. TAMBURO: I'm going to object; that mischaracterizes the testimony.
Q. Did I mischaracterize your testimony?
A. The yarn is issued to winding for winding onto a particular spool or bobbin that would aid in the manufacturing steps that would come thereafter.
Q. Mmm-hmm. Is the ultra high molecular -- Is the polyethylene and the PET when it's received by Pearsalls, is the strand a monofilament?
MR. TAMBURO: Object to the form.
A. No.
Q. What is -- How do you characterize that strand of polyethylene when Pearsalls receives it?
MR. TAMBURO: Object to the form.
A. It is a various -- various individual filaments make up the yarn that's received. And the yarn may be

51

several filaments to many.
Q. So what is an individual filament then?
A. An individual filament is -- you would liken it to a hair.
Q. Okay.
A. An individual filament would be a monofilament taken by itself.
Q. Okay. And then many monofilaments make up a yarn?
A. Correct.
Q. And how are they -- how were the monofilaments structured within the yarn?
A. I believe they may have a slight twist.
Q. Okay. So a yarn of polyethylene used in the FiberWire sutures is made up of many monofilaments twisted around each other --
MR. TAMBURO: Objection; assumes --
Q. -- is that fair?
MR. TAMBURO: Objection; assumes facts not in evidence. I object to the form.
A. Potentially.
Q. Have I assumed any facts in that question that we haven't talked about today?
MR. TAMBURO: Well, I would just --
MR. FALKE: I'm asking the witness.

52

A. I'm not exactly sure on exactly how the yarn is received, so --
MR. TAMBURO: And I would clarify the witnesses's prior testimony has been ultra --
MR. FALKE: Is that an objection? Come on, Sal.
MR. TAMBURO: Yes, this is an objection. I would clarify that the witness's prior testimony has been polyethylene -- ultra high molecular weight polyethylene, and your questions are directed to something different.
And his prior testimony has stated that PET is used in FiberWire, and your questions are rephrasing that term, was well. I'm just trying to keep the record clear.
BY MR. FALKE:
Q. What is PET? Polyester; right?
A. PET is the particular polyester.
Q. So when I say polyester, I'm referring to the PET that's used in Arthrex's FiberWire sutures.
A. Yeah.
MR. TAMBURO: Is that a question?
Q. Yeah.
MR. TAMBURO: Okay.
A. If you're saying when you refer to polyester, we refer to -- it's referring to the PET.

53

Q. Right, because when I asked you what PET was, you said polyester; right?
A. No, PET is a subset of polyester.
Q. Okay. But do you know what PET is used in the manufacturing of Arthrex's FiberWire sutures?
A. I'm not exactly sure.
Q. Okay. We were talking about how the individual monofilaments in the polyethylene or the ultra high molecular polyethylene are structured. And I think you said they were twisted; is that right?
A. I believe there may be a slight twist just to ease in handling.
Q. Okay. Okay. And then, again, down to the second step in ARM 8784, those strands are then put onto bobbins; is that what you said?
A. Yes.
Q. And what is a bobbin as used in ARM 8784?
A. A bobbin as a general term would be any round -- what would you call it --
Q. Spool?
A. -- a revolved shape that would allow you to wind something. It may or may not have end caps on it.
Q. But the bobbin is actually the thing that the sutures are wound around?
A. Sutures are wound around.

54

Q. Okay.
A. Sutures, yarn, what have not.
Q. Right. In general, how big are these bobbins?
A. In general?
Q. Well, no. Let me ask the bobbins used in Pearsalls manufacture of Arthrex's FiberWire sutures, how big are the bobbins?
A. I would approximate them -- approximate about a foot -- 12 inches of length or less.
Q. Okay. And how -- and what length of the yarn of the PET and the ultra high molecular weight polyethylene are wound around the bobbins?
A. I'm not exactly sure.
Q. Okay. Generally?
A. Generally, it's --
Q. A hundred feet?
A. More than a hundred feet. Probably in excess of 2 or 300 meters.
Q. Okay. And then it says yarn issue dye the winding for core or cover; do you see that?
A. Yes.
Q. What does that mean?
A. At that point, they can either issue the yarn to a winding to -- which would then thereafter go into the cover portion of the product or they can issue it to be --

55

to go to the process for the core.
Q. Okay. And what -- does every Arthrex FiberWire suture have a cover?
A. Yes.
Q. Has every Arthrex FiberWire suture sold by Arthrex had a cover on it?
A. Yes.
Q. Okay. And currently and historically, has every Arthrex FiberWire suture had a core in it?
A. No.
Q. Okay. When did Arthrex's FiberWire sutures have a core?
A. They have always had a core.
Q. Do they -- Okay. I think I asked and currently and historically, has ever FiberWire suture had a core and you said no; right?
A. Yes.
Q. Okay. And then I said when -- when did Arthrex's FiberWire sutures have a core. And then you said they've always had a core.
A. We have one product that does not have a core.
Q. Okay. And what product is that?
A. The 4-0 FiberWire.
Q. Okay. So currently and historically, every FiberWire suture other than the 4-0 has had a core and a

56

cover; right?
A. Yes.
Q. And currently -- currently, the Arthrex 4-0 FiberWire suture does not have a core; right?
A. Correct.
Q. Has Arthrex's FiberWire suture -- 4-0 suture ever had a core?
A. No, not that I'm aware of.
Q. In Arthrex's FiberWire sutures presently, other than the 4-0 FiberWire, what is the core made of?
A. Ultra high molecular weight polyethylene.
Q. Is that it?
A. Yes.
Q. Okay. So in Arthrex's FiberWires -- all of Arthrex's FiberWire sutures except for 4-0, the core is made of solely ultra high molecular weight polyethylene?
A. Correct.
Q. And what about a cover? What is -- Currently, I think you said all Arthrex FiberWire sutures have a cover; right?
A. Yes.
Q. What materials make up the cover in each of Arthrex's FiberWire sutures?
A. Ultra high molecular weight polyethylene and PET.
Q. And has that always been the case?

57

A. Yes.
Q. But at various points and times, you think that the ultra high molecular polyethylene was either Dyneema or Spectra; is that right?
A. Correct.
Q. Was it anything other than Dyneema or Spectra at any time?
A. Not that I'm aware of.
Q. Okay. So I think where we are now is Pearsalls has taken the incoming yarn, put it onto bobbins, and then have separated bobbins used for cores and separates bobbins used for carriers; is that right? I mean cores and covers?
A. Correct.
Q. Okay. So let's go down then -- let's go down the cover side on ARM 8784. What does that mean?
A. From the previous step, which was the yarn issue to winding, the yarn was issued to winding on the carrier bobbins which are the particular bobbins used for the carriers.
Q. Is the carrier bobbin different than the bobbin you just described earlier?
A. It's one of -- to me, a bobbin -- a bobbin and a spool might be different. A bobbin would have a post on it with no cap.

98

Q. And I don't know if you did, but could you please label the core and the cover?
A. Yes, I did.
Q. Okay.
A. I was doing a core with three parts to represent the No. 2 suture. But since it's an 0, I'm not exactly sure how many yarns are made up of the core, but they're all UHMWP --
Q. Okay.
A. -- if that's acceptable.
Q. Okay. Yeah. Let me just take a look at it, please.
Okay. So but other than the core, which you're not quite sure of how many yarns make up the core on the 2-0, this outside accurately represents the cover or the sheath of the Arthrex 2-0 FiberWire?
A. Yes.
Q. Okay. And as you have shown, going around the cover or the sheath, the materials alternate PET, ultra high molecular weight polyethylene, PET, ultra high molecular weight polyethylene, et cetera?
A. Yes.
Q. Okay. Now within the sheath or the cover -- Well, first could you just label the sheath and the cover for me?

99

A. (Witness complying).
Q. Are the individual yarns in the cover or sheath of the Arthrex 2-0 FiberWire as shown in 121 in contact with each other, meaning is the ultra high molecular weight polyethylene yarn connected to the neighboring PET yarn?
MR. TAMBURO: Object to the form.
A. They're all interdigitated. I'm sure there's contact between them.
Q. Intertwined?
A. Yes.
Q. Okay. So there is contact then between the neighboring or adjacent PET and ultra high molecular weight --
A. Yes.
Q. -- polyethylene yarns and the sheath or cover?
A. Yes.
Q. Okay. Next, if you could, could you please draw a cross-section of Arthrex's No. 2 FiberWire?
And -- I'm sorry. But before we go on, does Exhibit 121 reflect the construction or the structure of the 2-0 FiberWire as it's always been?
A. To the best of my knowledge, yes.
Q. Okay. So the construction with the structure as shown in 121 of a 2-0 FiberWire suture hasn't changed over

100

time? Ever since Arthrex is manufacturing a 2-0 FiberWire, it's been using this configuration as shown in 121?
A. Yes.
Q. Okay.
A. (Witness complying).
Q. And I'm going to mark your drawing of Arthrex's No. 2 FiberWire suture as DePuy Mitek Exhibit 122.
(DePuy Mitek Exhibit No. 122, drawing of Peter Dreyfuss of the Approximate Cross-Section of No. 2 FiberWire, was marked for identification.)
Q. Can I take a look at it, please?
A. Yes.
Q. Okay. And so this shows a core made up of three ultra high molecular weight polyethylene yarns twisted together and then a cover or sheath composed of alternating yarns of ultra high molecular weight polyethylene and PET; is that right?
A. Correct.
Q. And the PET and ultra high molecular weight polyethylene that make up the sheath or cover of Arthrex's FiberWire No. 2 are in direct contact with each other; is that right?
A. Yes.
Q. Okay. And they're intertwined around each other;

101

right?
A. They're braided.
Q. Okay. Is that intertwining or --
A. Yes, they're ...
Q. Okay. And does Exhibit 122 accurately reflect the construction of Arthrex's FiberWire No. 2 currently and since its release or since it was first sold by Arthrex?
MR. TAMBURO: Object to the form.
A. I believe so.
Q. Okay. Could you mark or title Exhibit 122?
A. (Witness complying).
Q. And next I was going to ask you to draw a cross-section of the No. 5 Arthrex FiberWire suture, which I believe is the same as Exhibit 122 that you have just drawn with the exception of possibly the number of yarns that comprise the core; is that right?
A. I believe that would be correct.
Q. Okay. And -- but the outside of the cover or sheath of the Arthrex FiberWire No. 2 is the same as the cover or sheath of the Arthrex FiberWire No. 2; right?
A. In the manner of braiding, yes.
Q. Right.
MR. TAMBURO: Object to the form.
Q. In the manner as you have shown in Exhibit

102

No. 122?
A. Yes.
Q. I misspoke there, but the outside or the cover of the Arthrex FiberWire No. 5 is the same as the cover or sheath of the Arthrex FiberWire No. 2; is that correct?
A. That's correct.
Q. Okay. The same in terms of configuration and contact and intertwining; right?
A. Yes.
Q. Okay. Next, if I can ask you to draw the cross-section of Arthrex's No. 0 FiberWire.
A. Let's see.
Q. And I believe you testified earlier, and correct me if I'm wrong --
A. Twelve.
Q. -- that there's twelve carriers?
A. Correct.
Q. Okay. And I also believe you testified earlier that you weren't sure about how many yarns make up the core in Arthrex's Size 0 FiberWire; is that right?
A. That's correct.
Q. Okay.
A. I'm sorry; would you give me the number again?
MR. TAMBURO: Here.
A. All right.

103

Q. Now I'm going to mark your drawing of a cross-section of Arthrex's No. 0 FiberWire with DePuy Mitek Exhibit 123.
(DePuy Mitek Exhibit No. 123, drawing of Peter Dreyfuss of the Approximate Cross-Section of Size 0 FiberWire, was marked for identification.)
Q. And I believe what you've drawn in Exhibit 123 is that the cover or sheath of the Arthrex No. 0 FiberWire has alternating yarns of PET and ultra high molecular weight polyethylene; is that right?
A. Correct.
Q. And that -- and that those neighboring yarns in the sheath or cover are in contact with each other?
A. Correct.
Q. And in the same configuration and intertwining manner as Exhibits 122 and 121?
A. Correct.
Q. Okay. Could you draw for me a cross-section of Arthrex's FiberWire 3-0 suture? I believe you testified earlier that it's eight carriers.
A. Thank you.
Q. And I'm going to label your cross-section drawing of Arthrex's FiberWire No. 3 suture with DePuy Mitek Exhibit 124.
(DePuy Mitek Exhibit No. 124, drawing of Peter

104

Dreyfuss of the Approximate Cross-Section of Size 3-0 FiberWire, was marked for identification.)
Q. And just so the record's clear, all these hand drawings that you have done so far, when it says UHMW, that means ultra high molecular weight polyethylene?
A. Correct.
Q. Okay. And what you've shown is that Arthrex's No. 3-0 FiberWire has alternating yarns of PET and ultra high molecular weight polyethylene?
A. Correct.
Q. And that those neighboring yarns and the sheath or cover contact each other?
A. Correct.
Q. And they're in the same -- you know -- intertwining manner as Exhibits 123, 122, and 121?
A. Correct.
Q. And now if you could just draw for me a cross-sectional drawing of Arthrex's 4-0 FiberWire suture, please. And I'm going to mark your drawing of Arthrex's 4-0 FiberWire suture with DePuy Mitek Exhibit 125.
A. (Witness complying).
(DePuy Mitek Exhibit No. 125, drawing of Peter Dreyfuss of the Approximate Cross-Section of Size 4-0 FiberWire, was marked for identification.)
Q. And I believe what you've shown in Exhibit 125 is

105

that, one, there's no core in the 4-0 FiberWire; right?
A. Correct.
Q. And that the sheath or cover is made up of intertwining yarns of ultra high molecular weight polyethylene and PET?
A. Correct.
Q. And that the neighboring yarns within the cover or sheath are in contact with each other?
A. Correct.
Q. Okay. Do Exhibits 123, 124, and 125 show not only the present-day but the configuration of the FiberWire sutures as sold in the past?
A. Yes, to the best of my knowledge and --
Q. In other words, there hasn't been any different configurations of Arthrex's 0, 3-0, and 4-0 FiberWire sutures?
A. I'm not for certain on the 4-0.
Q. Okay. But for the 2-0 and the -- or for the 0 and the 3-0 you are?
A. Yes.
Q. Okay. And I don't think I asked you this, but in Exhibit 125, the alternating sheaths -- alternating yarns and the sheath or cover are in intertwining contact like Exhibits 124, 123, 122, and 121?
A. Yes.